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AMENDED IN ASSEMBLY MARCH 19, 2009  
AMENDED IN ASSEMBLY FEBRUARY 23, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 23**

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**Introduced by Assembly Members Jones and Fletcher**  
(Principal coauthor: Senator Alquist)  
(*Coauthor: Assembly Member Salas*)

December 1, 2008

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An act to amend Sections 1366.20, 1366.21, 1366.22, ~~1366.24~~, and 1366.25 of the Health and Safety Code, and to amend Sections 10128.50, 10128.51, 10128.52, ~~10128.54~~, and 10128.55 of the Insurance Code, relating to health care coverage, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 23, as amended, Jones. Cal-COBRA: premium assistance.

Existing federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), requires group health plans providing coverage to employers of 20 or more employees to provide former employees with continuation of benefits, as specified. Existing federal law, the American Recovery and Reinvestment Act of 2009, provides specified premium assistance under COBRA and state programs that provide comparable continuation coverage for certain assistance eligible individuals, as defined.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful

violation of that act a crime. Existing law also provides for regulation of health insurers by the Department of Insurance. Existing law, the California Continuation Benefits Replacement Act (Cal-COBRA), requires health care service plans and health insurers providing group coverage to employers of 2 to 19 employees to offer continuation of that coverage for a specified period of time to ~~persons who become ineligible for that coverage~~ *certain qualified beneficiaries*, as specified.

This bill would require health care service plans and health insurers; ~~among others~~, to provide notice of the availability of premium assistance under the federal American Recovery and Reinvestment Act of 2009 to ~~individuals~~ *qualified beneficiaries who may be eligible* for that assistance, as specified, and would ~~make other conforming changes to allow those individuals to receive Cal-COBRA coverage with that premium assistance~~ *require the notice to include certain information and to be sent within specified periods of time. The bill would allow a qualified beneficiary eligible for the federal premium assistance to elect Cal-COBRA coverage within a certain period of time and would allow individuals enrolled in Cal-COBRA coverage as of February 17, 2009, to request application of the federal premium assistance, as specified.* The bill would authorize the Director of *the* Department of Managed Health Care and the Insurance Commissioner to adopt emergency regulations in the event that any federal assistance is or becomes available to persons eligible for Cal-COBRA, *as specified*.

Because a willful violation of these requirements would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 1366.20 of the Health and Safety Code
- 2 is amended to read:

1 1366.20. (a) This article shall be known as the California  
2 Continuation Benefits Replacement Act, or “Cal-COBRA.”

3 (b) It is the intent of the Legislature that continued access to  
4 health insurance coverage is provided to employees, and their  
5 dependents, of employers with 2 to 19 eligible employees who are  
6 not currently offered continuation coverage under the Consolidated  
7 Omnibus Budget Reconciliation Act of 1985.

8 (c) It is the intent of the Legislature that any federal assistance  
9 that is or may become available to qualified beneficiaries under  
10 this article be effectively and promptly implemented by the  
11 department.

12 (d) The director, *in consultation with the Insurance*  
13 *Commissioner*, may adopt emergency regulations to implement  
14 this article in accordance with Chapter 3.5 (commencing with  
15 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
16 Code by making a finding of emergency and demonstrating the  
17 need for immediate action in the event that any federal assistance  
18 is or becomes available to qualified beneficiaries under this article.  
19 The adoption of these regulations shall be considered by the Office  
20 of Administrative Law to be necessary to avoid serious harm to  
21 the public peace, health, safety, or general welfare. *Any regulations*  
22 *adopted pursuant to this subdivision shall be substantially similar*  
23 *to those adopted by the Insurance Commissioner under subdivision*  
24 *(d) of Section 10128.50 of the Insurance Code.*

25 SEC. 2. Section 1366.21 of the Health and Safety Code is  
26 amended to read:

27 1366.21. The definitions contained in this section govern the  
28 construction of this article.

29 (a) “Continuation coverage” means extended coverage under  
30 the group benefit plan in which an eligible employee or eligible  
31 dependent is currently enrolled, or, in the case of a termination of  
32 the group benefit plan or an employer open enrollment period,  
33 extended coverage under the group benefit plan currently offered  
34 by the employer.

35 (b) “Group benefit plan” means any health care service plan  
36 contract provided pursuant to Article 3.1 (commencing with  
37 Section 1357) to an employer with 2 to 19 eligible employees, as  
38 defined in Section 1357, as well as a specialized health care service  
39 plan contract provided to an employer with 2 to 19 eligible  
40 employees, as defined in Section 1357.

(c) (1) “Qualified beneficiary” means any individual who, on the day before the qualifying event, is an enrollee in a group benefit plan offered by a health care service plan pursuant to Article 3.1 (commencing with Section 1357) and has a qualifying event, as defined in subdivision (d). ~~For purposes of eligibility for the premium assistance under paragraph (1) of subdivision (a) of Section 3001 of Title III of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), a “qualified beneficiary” also includes any individual who was or is eligible~~

(2) *“Qualified beneficiary eligible for premium assistance under Title III of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)” means a qualified beneficiary, as defined in paragraph (1), who (A) was or is eligible for continuation coverage as a result of the involuntary termination of the covered employee’s employment during the period that begins with September 1, 2008, and ends with December 31, 2009, (B) elects continuation coverage, and (C) meets the definition of “qualified beneficiary” set forth in paragraph (3) of Section 1167 of Title 29 of the United States Code, as used in subparagraph (E) of paragraph (1) of subdivision (a) of Section 3001 of Title III of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or any subsequent rules or regulations issued pursuant to that law.*

(d) “Qualifying event” means any of the following events that, but for the election of continuation coverage under this article, would result in a loss of coverage under the group benefit plan to a qualified beneficiary:

(1) The death of the covered employee.

(2) The termination of employment or reduction in hours of the covered employee’s employment, except that termination for gross misconduct does not constitute a qualifying event.

(3) The divorce or legal separation of the covered employee from the covered employee’s spouse.

(4) The loss of dependent status by a dependent enrolled in the group benefit plan.

(5) With respect to a covered dependent only, the covered employee’s entitlement to benefits under Title XVIII of the United States Social Security Act (Medicare).

(e) “Employer” means any employer that meets the definition of “small employer” as set forth in Section 1357 and (1) employed

1 2 to 19 eligible employees on at least 50 percent of its working  
2 days during the preceding calendar year, or, if the employer was  
3 not in business during any part of the preceding calendar year,  
4 employed 2 to 19 eligible employees on at least 50 percent of its  
5 working days during the preceding calendar quarter, (2) has  
6 contracted for health care coverage through a group benefit plan  
7 offered by a health care service plan, and (3) is not subject to  
8 Section 4980B of the United States Internal Revenue Code or  
9 Chapter 18 of the Employee Retirement Income Security Act, 29  
10 U.S.C. Section 1161 et seq.

11 (f) “Core coverage” means coverage of basic health care  
12 services, as defined in subdivision (b) of Section 1345, and other  
13 hospital, medical, or surgical benefits provided by the group benefit  
14 plan that a qualified beneficiary was receiving immediately prior  
15 to the qualifying event, other than noncore coverage.

16 (g) “Noncore coverage” means coverage for vision and dental  
17 care.

18 SEC. 3. Section 1366.22 of the Health and Safety Code is  
19 amended to read:

20 1366.22. The continuation coverage requirements of this article  
21 do not apply to the following individuals:

22 (a) Individuals who are entitled to Medicare benefits or become  
23 entitled to Medicare benefits pursuant to Title XVIII of the United  
24 States Social Security Act, as amended or superseded. Entitlement  
25 to Medicare Part A only constitutes entitlement to benefits under  
26 Medicare.

27 (b) Individuals who have other hospital, medical, or surgical  
28 coverage or who are covered or become covered under another  
29 group benefit plan, including a self-insured employee welfare  
30 benefit plan, that provides coverage for individuals and that does  
31 not impose any exclusion or limitation with respect to any  
32 preexisting condition of the individual, other than a preexisting  
33 condition limitation or exclusion that does not apply to or is  
34 satisfied by the qualified beneficiary pursuant to Sections 1357  
35 and 1357.06. A group conversion option under any group benefit  
36 plan shall not be considered as an arrangement under which an  
37 individual is or becomes covered.

38 (c) Individuals who are covered, become covered, or are eligible  
39 for federal COBRA coverage pursuant to Section 4980B of the  
40 United States Internal Revenue Code or Chapter 18 of the

1 Employee Retirement Income Security Act, 29 U.S.C. Section  
2 1161 et seq.

3 (d) Individuals who are covered, become covered, or are eligible  
4 for coverage pursuant to Chapter 6A of the Public Health Service  
5 Act, 42 U.S.C. Section 300bb-1 et seq.

6 (e) Qualified beneficiaries who fail to meet the requirements of  
7 subdivision (b) of Section 1366.24 *or subdivision (h) of Section*  
8 *1366.25* regarding notification of a qualifying event or election of  
9 continuation coverage within the specified time limits; ~~except as~~  
10 ~~provided in subdivision (g) of Section 1366.24.~~

11 (f) Qualified beneficiaries who fail to submit the correct  
12 premium amount required by subdivision (b) of Section 1366.24  
13 and Section 1366.26, in accordance with the terms and conditions  
14 of the plan contract, or fail to satisfy other terms and conditions  
15 of the plan contract.

16 SEC. 4. ~~Section 1366.24 of the Health and Safety Code is~~  
17 ~~amended to read:~~

18 ~~1366.24. (a) Every health care service plan evidence of~~  
19 ~~coverage, provided for group benefit plans subject to this article,~~  
20 ~~that is issued, amended, or renewed on or after January 1, 1999,~~  
21 ~~shall disclose to covered employees of group benefit plans subject~~  
22 ~~to this article the ability to continue coverage pursuant to this~~  
23 ~~article, as required by this section.~~

24 ~~(b) This disclosure shall state that all enrollees who are eligible~~  
25 ~~to be qualified beneficiaries, as defined in subdivision (c) of~~  
26 ~~Section 1366.21, shall be required, as a condition of receiving~~  
27 ~~benefits pursuant to this article, to notify, in writing, the health~~  
28 ~~care service plan, or the employer if the employer contracts to~~  
29 ~~perform the administrative services as provided for in Section~~  
30 ~~1366.25, of all qualifying events as specified in paragraphs (1),~~  
31 ~~(3), (4), and (5) of subdivision (d) of Section 1366.21 within 60~~  
32 ~~days of the date of the qualifying event. This disclosure shall~~  
33 ~~inform enrollees that failure to make the notification to the health~~  
34 ~~care service plan, or to the employer when under contract to~~  
35 ~~provide the administrative services, within the required 60 days~~  
36 ~~will disqualify the qualified beneficiary from receiving continuation~~  
37 ~~coverage pursuant to this article. The disclosure shall further state~~  
38 ~~that a qualified beneficiary who wishes to continue coverage under~~  
39 ~~the group benefit plan pursuant to this article must request the~~  
40 ~~continuation in writing and deliver the written request, by first-class~~

1 mail, or other reliable means of delivery, including personal  
2 delivery, express mail, or private courier company, to the health  
3 care service plan, or to the employer if the plan has contracted  
4 with the employer for administrative services pursuant to  
5 subdivision (d) of Section 1366.25, within the 60-day period  
6 following the later of (1) the date that the enrollee's coverage under  
7 the group benefit plan terminated or will terminate by reason of a  
8 qualifying event, or (2) the date the enrollee was sent notice  
9 pursuant to subdivision (e) of Section 1366.25 of the ability to  
10 continue coverage under the group benefit plan. The disclosure  
11 required by this section shall also state that a qualified beneficiary  
12 electing continuation shall pay to the health care service plan, in  
13 accordance with the terms and conditions of the plan contract,  
14 which shall be set forth in the notice to the qualified beneficiary  
15 pursuant to subdivision (d) of Section 1366.25, the amount of the  
16 required premium payment, as set forth in Section 1366.26. The  
17 disclosure shall further require that the qualified beneficiary's first  
18 premium payment required to establish premium payment be  
19 delivered by first-class mail, certified mail, or other reliable means  
20 of delivery, including personal delivery, express mail, or private  
21 courier company, to the health care service plan, or to the employer  
22 if the employer has contracted with the plan to perform the  
23 administrative services pursuant to subdivision (d) of Section  
24 1366.25, within 45 days of the date the qualified beneficiary  
25 provided written notice to the health care service plan or the  
26 employer, if the employer has contracted to perform the  
27 administrative services, of the election to continue coverage in  
28 order for coverage to be continued under this article. This  
29 disclosure shall also state that the first premium payment must  
30 equal an amount sufficient to pay any required premiums and all  
31 premiums due, and that failure to submit the correct premium  
32 amount within the 45-day period will disqualify the qualified  
33 beneficiary from receiving continuation coverage pursuant to this  
34 article.

35 (e) The disclosure required by this section shall also describe  
36 separately how qualified beneficiaries whose continuation coverage  
37 terminates under a prior group benefit plan pursuant to subdivision  
38 (b) of Section 1366.27 may continue their coverage for the balance  
39 of the period that the qualified beneficiary would have remained  
40 covered under the prior group benefit plan, including the

1 requirements for election and payment. The disclosure shall clearly  
2 state that continuation coverage shall terminate if the qualified  
3 beneficiary fails to comply with the requirements pertaining to  
4 enrollment in, and payment of premiums to, the new group benefit  
5 plan within 30 days of receiving notice of the termination of the  
6 prior group benefit plan.

7 (d) ~~Prior to August 1, 1998, every health care service plan shall~~  
8 ~~provide to all covered employees of employers subject to this~~  
9 ~~article a written notice containing the disclosures required by this~~  
10 ~~section, or shall provide to all covered employees of employers~~  
11 ~~subject to this section a new or amended evidence of coverage that~~  
12 ~~includes the disclosures required by this section. Any specialized~~  
13 ~~health care service plan that, in the ordinary course of business,~~  
14 ~~maintains only the addresses of employer group purchasers of~~  
15 ~~benefits and does not maintain addresses of covered employees,~~  
16 ~~may comply with the notice requirements of this section through~~  
17 ~~the provision of the notices to its employer group purchasers of~~  
18 ~~benefits.~~

19 (e) ~~Every plan disclosure form issued, amended, or renewed on~~  
20 ~~and after January 1, 1999, for a group benefit plan subject to this~~  
21 ~~article shall provide a notice that, under state law, an enrollee may~~  
22 ~~be entitled to continuation of group coverage and that additional~~  
23 ~~information regarding eligibility for this coverage may be found~~  
24 ~~in the plan's evidence of coverage.~~

25 (f) ~~Every disclosure issued, amended, or renewed on and after~~  
26 ~~July 1, 2006, for a group benefit plan subject to this article shall~~  
27 ~~include the following notice:~~

28 —  
29 “~~Please examine your options carefully before declining this~~  
30 ~~coverage. You should be aware that companies selling individual~~  
31 ~~health insurance typically require a review of your medical history~~  
32 ~~that could result in a higher premium or you could be denied~~  
33 ~~coverage entirely.”~~

34 —  
35 (g) ~~Notwithstanding subdivision (b), a qualified beneficiary~~  
36 ~~may notify the health care service plan, or the employer if the plan~~  
37 ~~has contracted with the employer for administrative services~~  
38 ~~pursuant to subdivision (d) of Section 1366.25, of the qualified~~  
39 ~~beneficiary's election to continue coverage no later than 60 days~~  
40 ~~after receipt of the notice required under subdivision (g) of Section~~



1 ~~1366.25 if the qualified beneficiary meets all of the following~~  
2 ~~requirements:~~

3 ~~(1) Receives a notice pursuant to subdivision (g) of Section~~  
4 ~~1366.25.~~

5 ~~(2) Became eligible for continuation coverage prior to the~~  
6 ~~effective date of this subdivision.~~

7 ~~(3) Is eligible for premium assistance under paragraph (1) of~~  
8 ~~subdivision (a) of Section 3001 of Title III of Division B of the~~  
9 ~~American Recovery and Reinvestment Act of 2009 (Public Law~~  
10 ~~111-5).~~

11 ~~(4) Failed to notify the health care service plan, or the employer~~  
12 ~~if the plan has contracted with the employer for administrative~~  
13 ~~services pursuant to subdivision (d) of Section 1366.25, within the~~  
14 ~~60-day period following the later of the following:~~

15 ~~(A) The date that the enrollee's coverage under the group benefit~~  
16 ~~plan terminated or will terminate by reason of a qualifying event.~~

17 ~~(B) The date the enrollee was sent notice pursuant to subdivision~~  
18 ~~(e) of Section 1366.25 of the ability to continue coverage under~~  
19 ~~the group benefit plan.~~

20 ~~(h) With respect to a qualified beneficiary who elects to continue~~  
21 ~~coverage pursuant to subdivision (g), the period beginning on the~~  
22 ~~date of the qualifying event and ending on the effective date of the~~  
23 ~~continuation coverage shall be disregarded for purposes of~~  
24 ~~calculating a break in coverage in determining whether a~~  
25 ~~preexisting condition provision applies under subdivision (e) of~~  
26 ~~Section 1357.06 or subdivision (e) of Section 1357.51.~~

27 ~~SEC. 5.~~

28 *SEC. 4.* Section 1366.25 of the Health and Safety Code is  
29 amended to read:

30 1366.25. (a) Every group contract between a health care  
31 service plan and an employer subject to this article that is issued,  
32 amended, or renewed on or after July 1, 1998, shall require the  
33 employer to notify the plan, in writing, of any employee who has  
34 had a qualifying event, as defined in paragraph (2) of subdivision  
35 (d) of Section 1366.21, within 30 days of the qualifying event. The  
36 group contract shall also require the employer to notify the plan,  
37 in writing, within 30 days of the date, when the employer becomes  
38 subject to Section 4980B of the United States Internal Revenue  
39 Code or Chapter 18 of the Employee Retirement Income Security  
40 Act, 29 U.S.C. Sec. 1161 et seq.

(b) Every group contract between a plan and an employer subject to this article that is issued, amended, or renewed on or after July 1, 1998, shall require the employer to notify qualified beneficiaries currently receiving continuation coverage, whose continuation coverage will terminate under one group benefit plan prior to the end of the period the qualified beneficiary would have remained covered, as specified in Section 1366.27, of the qualified beneficiary's ability to continue coverage under a new group benefit plan for the balance of the period the qualified beneficiary would have remained covered under the prior group benefit plan. This notice shall be provided either 30 days prior to the termination or when all enrolled employees are notified, whichever is later.

Every health care service plan and specialized health care service plan shall provide to the employer replacing a health care service plan contract issued by the plan, or to the employer's agent or broker representative, within 15 days of any written request, information in possession of the plan reasonably required to administer the notification requirements of this subdivision and subdivision (c).

(c) Notwithstanding subdivision (a), the group contract between the health care service plan and the employer shall require the employer to notify the successor plan in writing of the qualified beneficiaries currently receiving continuation coverage so that the successor plan, or contracting employer or administrator, may provide those qualified beneficiaries with the necessary premium information, enrollment forms, and instructions consistent with the disclosure required by subdivision (c) of Section 1366.24 and subdivision (e) of this section to allow the qualified beneficiary to continue coverage. This information shall be sent to all qualified beneficiaries who are enrolled in the plan and those qualified beneficiaries who have been notified, pursuant to Section 1366.24, of their ability to continue their coverage and may still elect coverage within the specified 60-day period. This information shall be sent to the qualified beneficiary's last known address, as provided to the employer by the health care service plan or disability insurer currently providing continuation coverage to the qualified beneficiary. The successor plan shall not be obligated to provide this information to qualified beneficiaries if the employer or prior plan or insurer fails to comply with this section.

1 (d) A health care service plan may contract with an employer,  
2 or an administrator, to perform the administrative obligations of  
3 the plan as required by this article, including required notifications  
4 and collecting and forwarding premiums to the health care service  
5 plan. Except for the requirements of subdivisions (a), (b), and (c),  
6 this subdivision shall not be construed to permit a plan to require  
7 an employer to perform the administrative obligations of the plan  
8 as required by this article as a condition of the issuance or renewal  
9 of coverage.

10 (e) Every health care service plan, or employer or administrator  
11 that contracts to perform the notice and administrative services  
12 pursuant to this section, shall, within 14 days of receiving a notice  
13 of a qualifying event, provide to the qualified beneficiary the  
14 necessary benefits information, premium information, enrollment  
15 forms, and disclosures consistent with the notice requirements  
16 contained in subdivisions (b) and (c) of Section 1366.24 to allow  
17 the qualified beneficiary to formally elect continuation coverage.  
18 This information shall be sent to the qualified beneficiary's last  
19 known address.

20 (f) Every health care service plan, or employer or administrator  
21 that contracts to perform the notice and administrative services  
22 pursuant to this section, shall, during the 180-day period ending  
23 on the date that continuation coverage is terminated pursuant to  
24 paragraphs (1), (3), and (5) of subdivision (a) of Section 1366.27,  
25 notify a qualified beneficiary who has elected continuation  
26 coverage pursuant to this article of the date that his or her coverage  
27 will terminate, and shall notify the qualified beneficiary of any  
28 conversion coverage available to that qualified beneficiary. This  
29 requirement shall not apply when the continuation coverage is  
30 terminated because the group contract between the plan and the  
31 employer is being terminated.

32 ~~(g) For every qualified beneficiary eligible for premium~~  
33 ~~assistance under paragraph (1) of subdivision (a) of Section 3001~~  
34 ~~of Title III of Division B of the American Recovery and~~  
35 ~~Reinvestment Act of 2009 (Public Law 111-5), every health care~~  
36 ~~service plan, or employer or administrator that contracts to perform~~  
37 ~~the notice and administrative services pursuant to this section, shall~~  
38 ~~provide notice to the qualified beneficiary of the qualified~~  
39 ~~beneficiary's ability to elect continuation coverage no later than~~  
40 ~~60 days after receipt of that notice. This notice shall be provided~~

1 within 14 days of the effective date of this subdivision and shall  
2 inform the qualified beneficiary of the availability of premium  
3 assistance in the amount of 65 percent of the premium under  
4 subdivision (a) of Section 3001 of Title III of Division B of the  
5 American Recovery and Reinvestment Act of 2009 (Public Law  
6 111-5), and the duration of the premium assistance as provided by  
7 paragraph (2) of subdivision (a) of Section 3001 of Title III of  
8 Division B of the American Recovery and Reinvestment Act of  
9 2009 (Public Law 111-5). The notice shall use language that  
10 adequately informs a reasonable person that changes in federal  
11 law permit employees involuntarily terminated between September  
12 1, 2008, and December 31, 2009, to qualify for a 65 percent subsidy  
13 of Cal-COBRA premiums for up to nine months, and that any  
14 eligible employee who had previously rejected Cal-COBRA has  
15 the right under California law to withdraw that rejection and accept  
16 the coverage with the new subsidy. The notice shall also provide  
17 the qualified beneficiary with all necessary premium information,  
18 enrollment forms, and disclosures consistent with the notice  
19 requirements contained in subdivisions (b) and (c) of Section  
20 1366.24 to allow the qualified beneficiary to formally elect  
21 continuation coverage. This information shall be sent to the  
22 qualified beneficiary's last known address.

23 (g) (1) A health care service plan shall provide to a qualified  
24 beneficiary who has a qualifying event between September 1, 2008,  
25 and December 31, 2009, inclusive, a written notice containing  
26 information on the availability of premium assistance under Title  
27 III of Division B of the American Recovery and Reinvestment Act  
28 of 2009 (Public Law 111-5). This notice shall be sent to the  
29 qualified beneficiary's last known address. The notice shall include  
30 language that adequately informs a reasonable person of changes  
31 in federal law that provide a new opportunity to elect continuation  
32 coverage with a 65-percent premium subsidy and shall include all  
33 of the following:

34 (A) The amount of the premium the person will pay. For  
35 qualified beneficiaries who had a qualifying event between  
36 September 1, 2008, and the effective date of this subdivision,  
37 inclusive, if a health care service plan is unable to provide the  
38 correct premium amount in the notice, the notice may contain the  
39 last known premium amount and an opportunity for the qualified

1 beneficiary to request, through a toll-free telephone number, the  
2 correct premium that would apply to the beneficiary.

3 (B) Enrollment forms and any other information required to be  
4 included pursuant to subdivision (e) to allow the qualified  
5 beneficiary to elect continuation coverage. This information shall  
6 not be included in notices sent to qualified beneficiaries currently  
7 enrolled in continuation coverage.

8 (C) A description of the option to enroll in different coverage  
9 as provided in subparagraph (B) of paragraph (1) of subdivision  
10 (a) of Section 3001 of Title III of Division B of the American  
11 Recovery and Reinvestment Act of 2009 (Public Law 111-5).

12 (D) The eligibility requirements for premium assistance in the  
13 amount of 65 percent of the premium under Section 3001 of Title  
14 III of Division B of the American Recovery and Reinvestment Act  
15 of 2009 (Public Law 111-5).

16 (E) The duration of premium assistance available under Title  
17 III of Division B of the American Recovery and Reinvestment Act  
18 of 2009 (Public Law 111-5).

19 (F) A statement that a qualified beneficiary eligible for premium  
20 assistance under Title III of Division B of the American Recovery  
21 and Reinvestment Act of 2009 (Public Law 111-5) may elect  
22 continuation coverage no later than 60 days of the date of the  
23 notice.

24 (G) A statement that a qualified beneficiary eligible for premium  
25 assistance under Title III of Division B of the American Recovery  
26 and Reinvestment Act of 2009 (Public Law 111-5) who had  
27 previously rejected or discontinued continuation coverage has the  
28 right to withdraw that rejection and elect continuation coverage  
29 with the premium assistance.

30 (2) With respect to qualified beneficiaries who had a qualifying  
31 event between September 1, 2008, and the effective date of this  
32 subdivision, inclusive, the notice described in this subdivision shall  
33 be provided within 14 days of the effective date of this subdivision.

34 (3) With respect to qualified beneficiaries who had or have a  
35 qualifying event between the day after the effective date of this  
36 subdivision, and December 31, 2009, inclusive, the notice described  
37 in this subdivision shall be provided within the period of time  
38 specified in subdivision (e).

39 (4) For purposes of compliance with the notice requirements  
40 of this subdivision, the department may designate a model notice

1 or notices that may be used by health care service plans. Use of  
2 the model notice or notices shall not require prior approval by the  
3 department. Any model notice or notices designated by the  
4 department for purposes of this subdivision shall not be subject  
5 to the Administrative Procedure Act (Chapter 3.5 (commencing  
6 with Section 11340) of Part 1 of Division 3 of Title 2 of the  
7 Government Code).

8 (5) Nothing in this section shall be construed to require a health  
9 care service plan to provide the plan's evidence of coverage as a  
10 part of the notice required by this subdivision.

11 (h) (1) Notwithstanding any other provision of law, a qualified  
12 beneficiary eligible for premium assistance under Title III of  
13 Division B of the American Recovery and Reinvestment Act of  
14 2009 (Public Law 111-5) may elect continuation coverage no later  
15 than 60 days after the date of the notice required by subdivision  
16 (g).

17 (2) For a qualified beneficiary who elects to continue coverage  
18 pursuant to paragraph (1), the period beginning on the date of the  
19 qualifying event and ending on the effective date of the continuation  
20 coverage shall be disregarded for purposes of calculating a break  
21 in coverage in determining whether a preexisting condition  
22 provision applies under subdivision (c) of Section 1357.06 or  
23 subdivision (e) of Section 1357.51.

24 (3) For a qualified beneficiary who had a qualifying event  
25 between September 1, 2008, and February 16, 2009, inclusive,  
26 and who elects continuation coverage pursuant to paragraph (1),  
27 the continuation coverage shall commence on the first day of the  
28 month following the election.

29 (4) For a qualified beneficiary who had a qualifying event  
30 between February 17, 2009, and the effective date of this  
31 subdivision, inclusive, and who elects continuation coverage  
32 pursuant to paragraph (1), the effective date of the continuation  
33 coverage shall be either of the following, at the option of the  
34 beneficiary, provided that the beneficiary pays the applicable  
35 premiums:

36 (A) The date of the qualifying event.

37 (B) The first day of the month following the election.

38 (i) Notwithstanding any other provision of law, a qualified  
39 beneficiary eligible for premium assistance under Title III of  
40 Division B of the American Recovery and Reinvestment Act of

2009 (Public Law 111-5) may elect to enroll in different coverage subject to the criteria provided under subparagraph (B) of paragraph (1) of subdivision (a) of Section 3001 of Title III of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(j) A qualified beneficiary enrolled in continuation coverage as of February 17, 2009, who is eligible for premium assistance under Title III of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) may request application of the premium assistance as of March 1, 2009, or later, consistent with Title III of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

~~(h)~~

(k) A health care service plan that receives an election notice from a qualified beneficiary eligible for premium assistance under ~~paragraph (1) of subdivision (a) of Section 3001 of Title III of~~ Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), *pursuant to subdivision (h)*, shall be considered a person entitled to reimbursement, as defined in Section 6432(b)(3) of the Internal Revenue Code, as amended by paragraph (12) of subdivision (a) of Section 3001 of Title III of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

~~SEC. 6.~~

SEC. 5. Section 10128.50 of the Insurance Code is amended to read:

10128.50. (a) This article shall be known as the California Continuation Benefits Replacement Act, or "Cal-COBRA."

(b) It is the intent of the Legislature that continued access to health insurance coverage is provided to employees, and their dependents, of employers with 2 to 19 eligible employees who are not currently offered continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985.

(c) It is the intent of the Legislature that any federal assistance that is or may become available to qualified beneficiaries under this article be effectively and promptly implemented by the department.

(d) The commissioner, *in consultation with the Director of the Department of Managed Health Care*, may adopt emergency regulations to implement this article in accordance with Chapter

3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code by making a finding of emergency and demonstrating the need for immediate action in the event that any federal assistance is or becomes available to qualified beneficiaries under this article. The adoption of these regulations shall be considered by the Office of Administrative Law to be necessary to avoid serious harm to the public peace, health, safety, or general welfare. *Any regulations adopted pursuant to this subdivision shall be substantially similar to those adopted by the Director of the Department of Managed Health Care under subdivision (d) of Section 1366.20 of the Health and Safety Code.*

~~SEC. 7.~~

SEC. 6. Section 10128.51 of the Insurance Code is amended to read:

10128.51. (a) “Continuation coverage” means extended coverage under the group benefit plan under which an eligible employee or eligible dependent is currently covered, or, in the case of a termination of the group benefit plan or an employer open enrollment period, extended coverage under the group benefit plan currently offered by the employer.

(b) “Group benefit plan” has the same meaning as “health benefit plan” defined in Section 10700, including group policies of vision-only and dental-only coverage, provided pursuant to Chapter 8 (commencing with Section 10700) to an employer with 2 to 19 eligible employees, as defined in Section 10700.

(c) (1) “Qualified beneficiary” means any individual who, on the day before the qualifying event, is covered under a group benefit plan offered by a disability insurer pursuant to Article 1 (commencing with Section 10700) of Chapter 8, and has a qualifying event, as defined in subdivision (d). ~~For purposes of eligibility for the premium assistance under paragraph (1) of subdivision (a) of Section 3001 of Title III of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), a “qualified beneficiary” also includes any individual who~~

(2) “*Qualified beneficiary eligible for premium assistance under Title III of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)*” means a qualified beneficiary, as defined in paragraph (1), who (A) was or is eligible for continuation coverage as a result of the involuntary termination of the covered employee’s employment during the period that



begins with September 1, 2008, and ends with December 31, 2009, (B) elects continuation coverage, and (C) meets the definition of “qualified beneficiary” set forth in paragraph (3) of Section 1167 of Title 29 of the United States Code, as used in subparagraph (E) of paragraph (1) of subdivision (a) of Section 3001 of Title III of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) *or any subsequent rules or regulations issued pursuant to that law.*

(d) “Qualifying event” means any of the following events that, but for the election of continuation coverage under this article, would result in a loss of coverage under the group benefit plan to a qualified beneficiary:

(1) The death of the covered employee.

(2) The termination of employment or reduction in hours of the covered employee’s employment, except that termination for gross misconduct does not constitute a qualifying event.

(3) The divorce or legal separation of the covered employee from the covered employee’s spouse.

(4) The loss of dependent status by a dependent enrolled in the group benefit plan.

(5) With respect to a covered dependent only, the covered employee’s entitlement to benefits under Title XVIII of the United States Social Security Act (Medicare).

(e) “Employer” means any employer that meets the definition of “small employer” as set forth in Section 10700 and (1) employed 2 to 19 eligible employees on at least 50 percent of its working days during the preceding calendar year, or, if the employer was not in business during any part of the preceding calendar year, employed 2 to 19 eligible employees on at least 50 percent of its working days during the preceding calendar quarter, (2) has contracted for health care coverage through a group benefit plan offered by a disability insurer, and (3) is not subject to Section 4980B of the United States Internal Revenue Code or Chapter 18 of the Employee Retirement Income Security Act, 29 U.S.C. Section 1161 et seq.

(f) “Core coverage” means coverage for hospital, medical, or surgical benefits provided under the group benefit plan that a qualified beneficiary was receiving immediately prior to the qualifying event, other than noncore coverage.

1 (g) “Noncore coverage” means coverage for vision and dental  
2 care.

3 ~~SEC. 8.~~

4 *SEC. 7.* Section 10128.52 of the Insurance Code is amended  
5 to read:

6 10128.52. The continuation coverage requirements of this  
7 article do not apply to the following individuals:

8 (a) Individuals who are entitled to Medicare benefits or become  
9 entitled to Medicare benefits pursuant to Title XVIII of the United  
10 States Social Security Act, as amended or superseded. Entitlement  
11 to Medicare Part A only constitutes entitlement to benefits under  
12 Medicare.

13 (b) Individuals who have other hospital, medical, or surgical  
14 coverage, or who are covered or become covered under another  
15 group benefit plan, including a self-insured employee welfare  
16 benefit plan, that provides coverage for individuals and that does  
17 not impose any exclusion or limitation with respect to any  
18 preexisting condition of the individual, other than a preexisting  
19 condition limitation or exclusion that does not apply to or is  
20 satisfied by the qualified beneficiary pursuant to Sections 10198.6  
21 and 10198.7. A group conversion option under any group benefit  
22 plan shall not be considered as an arrangement under which an  
23 individual is or becomes covered.

24 (c) Individuals who are covered, become covered, or are eligible  
25 for federal COBRA coverage pursuant to Section 4980B of the  
26 United States Internal Revenue Code or Chapter 18 of the  
27 Employee Retirement Income Security Act, 29 U.S.C. Section  
28 1161 et seq.

29 (d) Individuals who are covered, become covered, or are eligible  
30 for coverage pursuant to Chapter 6A of the Public Health Service  
31 Act, 42 U.S.C. Section 300bb-1 et seq.

32 (e) Qualified beneficiaries who fail to meet the requirements of  
33 subdivision (b) of Section *10128.54* or subdivision (h) of Section  
34 10128.55 regarding notification of a qualifying event or election  
35 of continuation coverage within the specified time limits, ~~except~~  
36 ~~as provided in subdivision (g) of Section 10128.54.~~

37 (f) Qualified beneficiaries who fail to submit the correct  
38 premium amount required by subdivision (b) of Section 10128.55  
39 and Section 10128.57, in accordance with the terms and conditions

1 of the policy or contract, or fail to satisfy other terms and  
2 conditions of the policy or contract.

3 ~~SEC. 9. Section 10128.54 of the Insurance Code is amended~~  
4 ~~to read:~~

5 ~~10128.54. (a) Every insurer's evidence of coverage for group~~  
6 ~~benefit plans subject to this article, that is issued, amended, or~~  
7 ~~renewed on or after January 1, 1999, shall disclose to covered~~  
8 ~~employees of group benefit plans subject to this article the ability~~  
9 ~~to continue coverage pursuant to this article, as required by this~~  
10 ~~section.~~

11 ~~(b) This disclosure shall state that all insureds who are eligible~~  
12 ~~to be qualified beneficiaries, as defined in subdivision (c) of~~  
13 ~~Section 10128.51, shall be required, as a condition of receiving~~  
14 ~~benefits pursuant to this article, to notify, in writing, the insurer,~~  
15 ~~or the employer if the employer contracts to perform the~~  
16 ~~administrative services as provided for in Section 10128.55, of all~~  
17 ~~qualifying events as specified in paragraphs (1), (3), (4), and (5)~~  
18 ~~of subdivision (d) of Section 10128.51 within 60 days of the date~~  
19 ~~of the qualifying event. This disclosure shall inform insureds that~~  
20 ~~failure to make the notification to the insurer, or to the employer~~  
21 ~~when under contract to provide the administrative services, within~~  
22 ~~the required 60 days will disqualify the qualified beneficiary from~~  
23 ~~receiving continuation coverage pursuant to this article. The~~  
24 ~~disclosure shall further state that a qualified beneficiary who wishes~~  
25 ~~to continue coverage under the group benefit plan pursuant to this~~  
26 ~~article must request the continuation in writing and deliver the~~  
27 ~~written request, by first-class mail, or other reliable means of~~  
28 ~~delivery, including personal delivery, express mail, or private~~  
29 ~~courier company, to the disability insurer, or to the employer if~~  
30 ~~the plan has contracted with the employer for administrative~~  
31 ~~services pursuant to subdivision (d) of Section 10128.55, within~~  
32 ~~the 60-day period following the later of (1) the date that the~~  
33 ~~insured's coverage under the group benefit plan terminated or will~~  
34 ~~terminate by reason of a qualifying event, or (2) the date the insured~~  
35 ~~was sent notice pursuant to subdivision (e) of Section 10128.55~~  
36 ~~of the ability to continue coverage under the group benefit plan.~~  
37 ~~The disclosure required by this section shall also state that a~~  
38 ~~qualified beneficiary electing continuation shall pay to the disability~~  
39 ~~insurer, in accordance with the terms and conditions of the policy~~  
40 ~~or contract, which shall be set forth in the notice to the qualified~~

beneficiary pursuant to subdivision (d) of Section 10128.55, the amount of the required premium payment, as set forth in Section 10128.56. The disclosure shall further require that the qualified beneficiary's first premium payment required to establish premium payment be delivered by first-class mail, certified mail, or other reliable means of delivery, including personal delivery, express mail, or private courier company, to the disability insurer, or to the employer if the employer has contracted with the insurer to perform the administrative services pursuant to subdivision (d) of Section 10128.55, within 45 days of the date the qualified beneficiary provided written notice to the insurer or the employer, if the employer has contracted to perform the administrative services, of the election to continue coverage in order for coverage to be continued under this article. This disclosure shall also state that the first premium payment must equal an amount sufficient to pay all required premiums and all premiums due, and that failure to submit the correct premium amount within the 45-day period will disqualify the qualified beneficiary from receiving continuation coverage pursuant to this article.

(c) The disclosure required by this section shall also describe separately how qualified beneficiaries whose continuation coverage terminates under a prior group benefit plan pursuant to Section 10128.57 may continue their coverage for the balance of the period that the qualified beneficiary would have remained covered under the prior group benefit plan, including the requirements for election and payment. The disclosure shall clearly state that continuation coverage shall terminate if the qualified beneficiary fails to comply with the requirements pertaining to enrollment in, and payment of premiums to, the new group benefit plan within 30 days of receiving notice of the termination of the prior group benefit plan.

(d) Prior to August 1, 1998, every insurer shall provide to all covered employees of employers subject to this article written notice containing the disclosures required by this section, or shall provide to all covered employees of employers subject to this article a new or amended evidence of coverage that includes the disclosures required by this section. Any insurer that, in the ordinary course of business, maintains only the addresses of employer group purchasers of benefits, and does not maintain addresses of covered employees, may comply with the notice

1 requirements of this section through the provision of the notices  
2 to its employer group purchases of benefits:

3 (e) ~~Every disclosure form issued, amended, or renewed on and~~  
4 ~~after January 1, 1999, for a group benefit plan subject to this article~~  
5 ~~shall provide a notice that, under state law, an insured may be~~  
6 ~~entitled to continuation of group coverage and that additional~~  
7 ~~information regarding eligibility for this coverage may be found~~  
8 ~~in the evidence of coverage:~~

9 (f) ~~Every disclosure form issued, amended, or renewed on and~~  
10 ~~after July 1, 2006, for a group benefit plan subject to this article~~  
11 ~~shall include the following notice:~~

12  
13 “~~Please examine your options carefully before declining this~~  
14 ~~coverage. You should be aware that companies selling individual~~  
15 ~~health insurance typically require a review of your medical history~~  
16 ~~that could result in a higher premium or you could be denied~~  
17 ~~coverage entirely.”~~

18  
19 (g) ~~Notwithstanding subdivision (b), a qualified beneficiary~~  
20 ~~may notify the insurer, or the employer if the plan has contracted~~  
21 ~~with the employer for administrative services pursuant to~~  
22 ~~subdivision (d) of Section 10128.55, of the qualified beneficiary’s~~  
23 ~~election to continue coverage no later than 60 days after receipt~~  
24 ~~of the notice required under subdivision (g) of Section 10128.55~~  
25 ~~if the qualified beneficiary meets all of the following requirements:~~

26 (1) ~~Receives a notice pursuant to subdivision (g) of Section~~  
27 ~~10128.55:~~

28 (2) ~~Became eligible for continuation coverage prior to the~~  
29 ~~effective date of this subdivision:~~

30 (3) ~~Is eligible for premium assistance under paragraph (1) of~~  
31 ~~subdivision (a) of Section 3001 of Title III of Division B of the~~  
32 ~~American Recovery and Reinvestment Act of 2009 (Public Law~~  
33 ~~111-5):~~

34 (4) ~~Failed to notify the insurer, or the employer if the plan has~~  
35 ~~contracted with the employer for administrative services pursuant~~  
36 ~~to subdivision (d) of Section 10128.55, within the 60-day period~~  
37 ~~following the later of the following:~~

38 (A) ~~The date that the insured’s coverage under the group benefit~~  
39 ~~plan terminated or will terminate by reason of a qualifying event:~~

1     ~~(B) The date the insured was sent notice pursuant to subdivision~~  
2     ~~(e) of Section 10128.55 of the ability to continue coverage under~~  
3     ~~the group benefit plan.~~

4     ~~(h) With respect to a qualified beneficiary who elects to continue~~  
5     ~~coverage pursuant to subdivision (g), the period beginning on the~~  
6     ~~date of the qualifying event and ending on the effective date of the~~  
7     ~~continuation coverage shall be disregarded for purposes of~~  
8     ~~calculating a break in coverage in determining whether a~~  
9     ~~preexisting condition provision applies under subdivision (e) of~~  
10    ~~Section 10198.7 or subdivision (e) of Section 10708.~~

11    ~~SEC. 10.~~

12    ~~SEC. 8.~~ Section 10128.55 of the Insurance Code is amended  
13    to read:

14    10128.55. (a) Every group benefit plan contract between a  
15    disability insurer and an employer subject to this article that is  
16    issued, amended, or renewed on or after July 1, 1998, shall require  
17    the employer to notify the insurer in writing of any employee who  
18    has had a qualifying event, as defined in paragraph (2) of  
19    subdivision (d) of Section 10128.51, within 30 days of the  
20    qualifying event. The group contract shall also require the employer  
21    to notify the insurer, in writing, within 30 days of the date when  
22    the employer becomes subject to Section 4980B of the United  
23    States Internal Revenue Code or Chapter 18 of the Employee  
24    Retirement Income Security Act, 29 U.S.C. Sec. 1161 et seq.

25    (b) Every group benefit plan contract between a disability insurer  
26    and an employer subject to this article that is issued, amended, or  
27    renewed after July 1, 1998, shall require the employer to notify  
28    qualified beneficiaries currently receiving continuation coverage,  
29    whose continuation coverage will terminate under one group  
30    benefit plan prior to the end of the period the qualified beneficiary  
31    would have remained covered, as specified in Section 10128.57,  
32    of the qualified beneficiary's ability to continue coverage under a  
33    new group benefit plan for the balance of the period the qualified  
34    beneficiary would have remained covered under the prior group  
35    benefit plan. This notice shall be provided either 30 days prior to  
36    the termination or when all enrolled employees are notified,  
37    whichever is later.

38    Every disability insurer shall provide to the employer replacing  
39    a group benefit plan policy issued by the insurer, or to the  
40    employer's agent or broker representative, within 15 days of any

1 written request, information in possession of the insurer reasonably  
2 required to administer the notification requirements of this  
3 subdivision and subdivision (c).

4 (c) Notwithstanding subdivision (a), the group benefit plan  
5 contract between the insurer and the employer shall require the  
6 employer to notify the successor plan in writing of the qualified  
7 beneficiaries currently receiving continuation coverage so that the  
8 successor plan, or contracting employer or administrator, may  
9 provide those qualified beneficiaries with the necessary premium  
10 information, enrollment forms, and instructions consistent with  
11 the disclosure required by subdivision (c) of Section 10128.54 and  
12 subdivision (e) of this section to allow the qualified beneficiary to  
13 continue coverage. This information shall be sent to all qualified  
14 beneficiaries who are enrolled in the group benefit plan and those  
15 qualified beneficiaries who have been notified, pursuant to Section  
16 10128.54 of their ability to continue their coverage and may still  
17 elect coverage within the specified 60-day period. This information  
18 shall be sent to the qualified beneficiary's last known address, as  
19 provided to the employer by the health care service plan or,  
20 disability insurer currently providing continuation coverage to the  
21 qualified beneficiary. The successor insurer shall not be obligated  
22 to provide this information to qualified beneficiaries if the  
23 employer or prior insurer or health care service plan fails to comply  
24 with this section.

25 (d) A disability insurer may contract with an employer, or an  
26 administrator, to perform the administrative obligations of the plan  
27 as required by this article, including required notifications and  
28 collecting and forwarding premiums to the insurer. Except for the  
29 requirements of subdivisions (a), (b), and (c), this subdivision shall  
30 not be construed to permit an insurer to require an employer to  
31 perform the administrative obligations of the insurer as required  
32 by this article as a condition of the issuance or renewal of coverage.

33 (e) Every insurer, or employer or administrator that contracts  
34 to perform the notice and administrative services pursuant to this  
35 section, shall, within 14 days of receiving a notice of a qualifying  
36 event, provide to the qualified beneficiary the necessary premium  
37 information, enrollment forms, and disclosures consistent with the  
38 notice requirements contained in subdivisions (b) and (c) of Section  
39 10128.54 to allow the qualified beneficiary to formally elect

1 continuation coverage. This information shall be sent to the  
2 qualified beneficiary's last known address.

3 (f) Every insurer, or employer or administrator that contracts  
4 to perform the notice and administrative services pursuant to this  
5 section, shall, during the 180-day period ending on the date that  
6 continuation coverage is terminated pursuant to paragraphs (1),  
7 (3), and (5) of subdivision (a) of Section 10128.57, notify a  
8 qualified beneficiary who has elected continuation coverage  
9 pursuant to this article of the date that his or her coverage will  
10 terminate, and shall notify the qualified beneficiary of any  
11 conversion coverage available to that qualified beneficiary. This  
12 requirement shall not apply when the continuation coverage is  
13 terminated because the group contract between the insurer and the  
14 employer is being terminated.

15 ~~(g) For every qualified beneficiary eligible for premium~~  
16 ~~assistance under paragraph (1) of subdivision (a) of Section 3001~~  
17 ~~of Title III of Division B of the American Recovery and~~  
18 ~~Reinvestment Act of 2009 (Public Law 111-5), every insurer, or~~  
19 ~~employer or administrator that contracts to perform the notice and~~  
20 ~~administrative services pursuant to this section, shall provide notice~~  
21 ~~to the qualified beneficiary of the qualified beneficiary's ability~~  
22 ~~to elect continuation coverage no later than 60 days after receipt~~  
23 ~~of that notice. This notice shall be provided within 14 days of the~~  
24 ~~effective date of this subdivision and shall inform the qualified~~  
25 ~~beneficiary of the availability of premium assistance in the amount~~  
26 ~~of 65 percent of the premium under subdivision (a) of Section~~  
27 ~~3001 of Title III of Division B of the American Recovery and~~  
28 ~~Reinvestment Act of 2009 (Public Law 111-5), and the duration~~  
29 ~~of the premium assistance as provided by paragraph (2) of~~  
30 ~~subdivision (a) of Section 3001 of Title III of Division B of the~~  
31 ~~American Recovery and Reinvestment Act of 2009 (Public Law~~  
32 ~~111-5). The notice shall use language that adequately informs a~~  
33 ~~reasonable person that changes in federal law permit employees~~  
34 ~~involuntarily terminated between September 1, 2008, and~~  
35 ~~December 31, 2009, to qualify for a 65 percent subsidy of~~  
36 ~~Cal-COBRA premiums for up to nine months, and that any eligible~~  
37 ~~employee who had previously rejected Cal-COBRA has the right~~  
38 ~~under California law to withdraw that rejection and accept the~~  
39 ~~coverage with the new subsidy. The notice shall also provide the~~  
40 ~~qualified beneficiary with all necessary premium information;~~



1 enrollment forms, and disclosures consistent with the notice  
2 requirements contained in subdivisions (b) and (c) of Section  
3 10128.54 to allow the qualified beneficiary to formally elect  
4 continuation coverage. This information shall be sent to the  
5 qualified beneficiary's last known address.

6 (g) (1) *An insurer shall provide to a qualified beneficiary who*  
7 *has a qualifying event between September 1, 2008, and December*  
8 *31, 2009, inclusive, a written notice containing information on the*  
9 *availability of premium assistance under Title III of Division B of*  
10 *the American Recovery and Reinvestment Act of 2009 (Public Law*  
11 *111-5). This notice shall be sent to the qualified beneficiary's last*  
12 *known address. The notice shall include language that adequately*  
13 *informs a reasonable person of changes in federal law that provide*  
14 *a new opportunity to elect continuation coverage with a 65-percent*  
15 *premium subsidy and shall include all of the following:*

16 (A) *The amount of the premium the person will pay. For*  
17 *qualified beneficiaries who had a qualifying event between*  
18 *September 1, 2008, and the effective date of this subdivision,*  
19 *inclusive, if an insurer is unable to provide the correct premium*  
20 *amount in the notice, the notice may contain the last known*  
21 *premium amount and an opportunity for the qualified beneficiary*  
22 *to request, through a toll-free telephone number, the correct*  
23 *premium that would apply to the beneficiary.*

24 (B) *Enrollment forms and any other information required to be*  
25 *included pursuant to subdivision (e) to allow the qualified*  
26 *beneficiary to elect continuation coverage. This information shall*  
27 *not be included in notices sent to qualified beneficiaries currently*  
28 *enrolled in continuation coverage.*

29 (C) *A description of the option to enroll in different coverage*  
30 *as provided in subparagraph (B) of paragraph (1) of subdivision*  
31 *(a) of Section 3001 of Title III of Division B of the American*  
32 *Recovery and Reinvestment Act of 2009 (Public Law 111-5).*

33 (D) *The eligibility requirements for premium assistance in the*  
34 *amount of 65 percent of the premium under Section 3001 of Title*  
35 *III of Division B of the American Recovery and Reinvestment Act*  
36 *of 2009 (Public Law 111-5).*

37 (E) *The duration of premium assistance available under Title*  
38 *III of Division B of the American Recovery and Reinvestment Act*  
39 *of 2009 (Public Law 111-5).*

1     (F) A statement that a qualified beneficiary eligible for premium  
2     assistance under Title III of Division B of the American Recovery  
3     and Reinvestment Act of 2009 (Public Law 111-5) may elect  
4     continuation coverage no later than 60 days of the date of the  
5     notice.

6     (G) A statement that a qualified beneficiary eligible for premium  
7     assistance under Title III of Division B of the American Recovery  
8     and Reinvestment Act of 2009 (Public Law 111-5) who had  
9     previously rejected or discontinued continuation coverage has the  
10    right to withdraw that rejection and elect continuation coverage  
11    with the premium assistance.

12    (2) With respect to qualified beneficiaries who had a qualifying  
13    event between September 1, 2008, and the effective date of this  
14    subdivision, inclusive, the notice described in this subdivision shall  
15    be provided within 14 days of the effective date of this subdivision.

16    (3) With respect to qualified beneficiaries who had or have a  
17    qualifying event between the day after the effective date of this  
18    subdivision, and December 31, 2009, inclusive, the notice described  
19    in this subdivision shall be provided within the period of time  
20    specified in subdivision (e).

21    (4) For purposes of compliance with the notice requirements  
22    of this subdivision, the department may designate a model notice  
23    or notices that may be used by plans. Use of the model notice or  
24    notices shall not require prior approval by the department. Any  
25    model notice or notices designated by the department for purposes  
26    of this subdivision shall not be subject to the Administrative  
27    Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
28    Part 1 of Division 3 of Title 2 of the Government Code).

29    (5) Nothing in this section shall be construed to require an  
30    insurer to provide the insurer's evidence of coverage as a part of  
31    the notice required by this subdivision.

32    (h) (1) Notwithstanding any other provision of law, a qualified  
33    beneficiary eligible for premium assistance under Title III of  
34    Division B of the American Recovery and Reinvestment Act of  
35    2009 (Public Law 111-5) may elect continuation coverage no later  
36    than 60 days after the date of the notice required by subdivision  
37    (g).

38    (2) For a qualified beneficiary who elects to continue coverage  
39    pursuant to paragraph (1), the period beginning on the date of the  
40    qualifying event and ending on the effective date of the continuation

1 coverage shall be disregarded for purposes of calculating a break  
2 in coverage in determining whether a preexisting condition  
3 provision applies under subdivision (e) of Section 10198.7 or  
4 subdivision (c) of Section 10708.

5 (3) For a qualified beneficiary who had a qualifying event  
6 between September 1, 2008, and February 16, 2009, inclusive,  
7 and who elects continuation coverage pursuant to paragraph (1),  
8 the continuation coverage shall commence on the first day of the  
9 month following the election.

10 (4) For a qualified beneficiary who had a qualifying event  
11 between February 17, 2009, and the effective date of this  
12 subdivision, inclusive, and who elects continuation coverage  
13 pursuant to paragraph (1), the effective date of the continuation  
14 coverage shall be either of the following, at the option of the  
15 beneficiary, provided that the beneficiary pays the applicable  
16 premiums:

17 (A) The date of the qualifying event.

18 (B) The first day of the month following the election.

19 (i) Notwithstanding any other provision of law, a qualified  
20 beneficiary eligible for premium assistance under Title III of  
21 Division B of the American Recovery and Reinvestment Act of  
22 2009 (Public Law 111-5) may elect to enroll in different coverage  
23 subject to the criteria provided under subparagraph (B) of  
24 paragraph (1) of subdivision (a) of Section 3001 of Title III of  
25 Division B of the American Recovery and Reinvestment Act of  
26 2009 (Public Law 111-5).

27 (j) A qualified beneficiary enrolled in continuation coverage as  
28 of February 17, 2009, who is eligible for premium assistance under  
29 Title III of Division B of the American Recovery and Reinvestment  
30 Act of 2009 (Public Law 111-5) may request application of the  
31 premium assistance as of March 1, 2009, or later, consistent with  
32 Title III of Division B of the American Recovery and Reinvestment  
33 Act of 2009 (Public Law 111-5).

34 ~~(h)~~

35 (k) An insurer that receives an election notice from a qualified  
36 beneficiary eligible for premium assistance under ~~paragraph (1)~~  
37 ~~of subdivision (a) of Section 3001 of Title III of Division B of the~~  
38 American Recovery and Reinvestment Act of 2009 (Public Law  
39 111-5), pursuant to subdivision (h), shall be considered a person  
40 entitled to reimbursement, as defined in Section 6432(b)(3) of the

1 Internal Revenue Code, as amended by paragraph (12) of  
2 subdivision (a) of Section 3001 of Title III of Division B of the  
3 American Recovery and Reinvestment Act of 2009 (Public Law  
4 111-5).

5 ~~SEC. 11.~~

6 *SEC. 9.* No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.

15 *SEC. 10.* *This act is an urgency statute necessary for the*  
16 *immediate preservation of the public peace, health, or safety within*  
17 *the meaning of Article IV of the Constitution and shall go into*  
18 *immediate effect. The facts constituting the necessity are:*

19 *In order to make federal funds available at the earliest possible*  
20 *time to address the state's pressing need for federally subsidized*  
21 *health care coverage premiums for individuals who have lost group*  
22 *health care coverage due to a qualifying event and may be eligible*  
23 *for state continuation coverage under Cal-COBRA and in order*  
24 *to help carry out the powers of the Department of Insurance and*  
25 *the Department of Managed Health Care to protect the interests*  
26 *of the public and carry out the intent of the Legislature to*  
27 *encourage the availability of health care coverage to the public*  
28 *without gaps in coverage when possible, it is necessary that this*  
29 *act take effect immediately.*